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Govt. Pr.—37—100,000—22-6-48.

Development (1948) Department.

MS SERIES.

G.O. No.	5367
Dated	29 x 48

[Despatch Abstract.]

LABOUR : INDUSTRIAL DISPUTES ACT, : AWARDS OF TRIBUNALS : PUBLICATION IN FORT ST. GEORGE GAZETTE : ORDERS PASSED.

GOVERNMENT OF MADRAS
Development Department.

Memorandum No. 48748-PI/48.5 dated the 17th October 1948.

Sub: LABOUR - Industrial Disputes - Award of Tribunals - Publication in Fort St. George Gazette.
Ref: Correspondence from the Commissioner of Labour resting with letter No.C4-2384/48 dated the 18th June 1948.

The Commissioner of Labour is informed that Section 17 of the Industrial Disputes Act does not empower the Government to issue a general notification. The manner of publication will in future be mentioned in the order. He is, however, requested to see that copies are, as far as possible sent to the concerned parties.

K.G. MENON
Joint Secretary to Government.

To the Commissioner of Labour.

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DEVELOPMENT DEPARTMENT.

Sub: LABOUR - Disputes - Publication of awards, etc.
Ref: Letter from the Commissioner of Labour, No.C4-2384/48 dated 24th April 1948
Letter from the Commissioner of Labour, No.C4-2384/48 dated 28th June 1948.

Section 17 of the Industrial Disputes Act says that the report of a Board of Cinciliation or Court of Enquiry or the award of an Industrial Tribunal should be published by the appropriate Government in such manner as it thinks fit. At present a summary of these reports or awards is released to the press for publication and the awards are generally published in the Fort St. George Gazette also.

2. The Commissioner of Labour says that the managements of industrial establishments evade implementation of the awards of the Industrial Tribunals on the pretext that they have not received copies of the awards and to avoid this allegation copies of the awards are now being sent to the parties by registered post, acknolwedgement due. This involves much expenditure and some employers may avoid service of these orders by eavding to receive the awards. To overcome this, the Commissioner of Labour suggests that a notification may be published in the Fort St. George Gazette informing the public that publication of the awards and the orders of Government thereon in the Fort St.George Gazette will be deemed to be publication as required by section 17 of the Industrial Disputes Act.

3. It is doubtful whether by publishing the awards, etc., in the Fort St. George Gazette, the Government can do away with sending copies of the awards, etc., to the parties and expect them to implement the awards, etc. It is also doubtful any prosectuion can be successfully maintained if the parties plead that they have not been supplied with copies of the awards, etc. The remarks of Legal may be invited.

When there are a large number of managements as in the case of Motor Transport Services, Beedi facotiries, etc., it will be very difficult to send copies individually. A notification as suggested by the Commissioner of Labour may be issued and the awards published in the Fort St. George Gazette as is being done now. As far as possible, copies may also be sent indivdually.

This may be technically correct, but cannot satisfy.

W.R.S.

C.P.M/2.8.48

Copies must be sent individually to all concerned, no matter what the trouble. The best plan is to get them printed I think. Legal may, however, advise.

W.R.S(attianahdan)/3.8.
Secretary.

LEGAL DEPARTMENT

Section 17 of the Industrial Disputes Act, 1947, does not prescribe any particular mode in which the award of a Tribunal should be published. On the contrary, all that the section requires is that the award, together with any minute of dissent recorded therewith, should be published as regards the manner of publication the matter is left to the discretion of Government - see the words "in such manner as it thinks fit" in section 17. Publication in the Fort St. George Gazette is sufficient compliance with the provisions of section 17 and the communication of a copy of the award to each of the parties on whom the award will be binding is not legally obligatory. There is, however, no legal objection to a copy of the award being served upon each party who will be bound by it, but there may be practical difficulties in doing so, aspointed out by the Commissioner of Labour, and the absence of such service may,

K.P.R.
6.8.48

in certain cases, be used by parties to their own advantage.

N.S/ 5/6-8.48

K.P.R(aghuramiah)/6.8.48
Joint Secretary.

DEVELOPMENT DEPARTMENT.

Legal Deptt. say that publication of the award in the Fort St. George Gazette is ~~fuell~~ sufficient compliance with the provisions of section 17 if the Industrial Disputes Act and communication of copies of the award to the parties on whom the Award is enforced is not legally obligatory. But when a prosecution was launched against the management of Sri Venkateswara Motor Service, Ellore, for non-implementation of an award given under the Defence of India Rules, the Additional District Magistrate, who tried the case, acquitted the accused one of the reasons for acquittal being that a copy of the G.O. containing the interim award to the workers in Motor Transport Services and Motor Transport Workshops was not properly communicated to the parties. It is possible that this may recur in the case of awards under the Industrial Disputes Act also. The Government of India are, however, being addressed for amending the Act suitably. For orders whether this may lie over till the Act is suitably amended or a reply is received from the Government of India to the contrary.

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C.P.M/

The Commissioner of Labour may be told that as far possible, copies should be sent to the parties, but the notification suggested by him may be published in the Fort St.George Gazette to guard against omissions in cases where there are large number of employers.

C.P.M./26.8.48

K.G.M(enon)/28.8.48
Joint Secretary.

Draft order is put up for approval.

Legal may see before issue.

C.P.M/8.9.48

LEGAL DEPARTMENT.

Section 17 of the Industrial Disputes Act only provides that the report of the Board or Court and the award of a Tribunal should be publish~~ed and the~~ within a specified period by the appropriate Government in such manner as it thinks fit. The words underlined are for the guidance of the Government concerned. They cannot be constructed as empowering the Government to issue a general notification as proposed in the draft.

With reference to the remarks of Dev. in their note at "M" on p. 3 ante, it may be mentioned that the case referred to therein related to the contravention of an order passed under rule 81-A of the Defence of India Rules - vide paragraph 8 and 9 on page 243 c.f. of G.O. No. 2095 Home dated 3-6-1948. The relevant order in that case had to be communicated to the management concerned in the manner prescribed under rule 119 of the Defence of India Rules -- vide copy of the order at "Y" . The present case is therefore quite different from the case referred to by Development.

In the circumstances, the appropriate course will be to indicate the manner of publication every time an order is issued under section 17.

xx/17.9.48

DEVELOPMENT DEPARTMENT

Please see Legal notes on p.4 ante

A revised draft memo is submitted for approval.

C.P.M/15.X.48

K.G.M(enon)/16.X.48
Joint Secretary

/Issued as Memo No. 48784/I/48.5 dated 17.X,1948/

The papers may now be closed as a G.O. for future reference.

C.P.M./22.X.48

G.O. (Ms) No. 5367 Dev. dated the 29th October 1948.

Abstract.

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LABOUR - Industrial Disputes Act - Awards of Tribunals - Publication in Fort St. George Gazette - Orders passed.

/True copy/

Superintendent,
Madras Record Office, Egmore.

Sk. 28/7

7/9.